

REMARKS

Claims 1-39 are pending in this application. With entry of this response, Applicants have canceled claims 2-3, 7, 11-12, 19-20, 24, 28-29, 34-37 and amended claims 1, 4-6, 8-10, 13-18, 21-23, 25-27, 30-33, 38-39. Support for the claim amendments are found throughout the originally-filed specification and claims (e.g., Example 1 *etc*). No new matter has been introduced. Applicants thank the Examiner for providing an indication that the claims are free of the prior art. In view of the following remarks, Applicants respectfully request reconsideration of the amended claims.

The Examiner objected to claims 2-16, 18-33, and 38-39 as lacking a comma and for a misspelling in claim 7. The claims have been cancelled or amended accordingly.

The Examiner rejected claims 1-2, 4-19, 21-33, and 38-39 as allegedly lacking enablement. According to the Examiner, the present specification does not enable all selectable markers and all concentrations of organosilicone surfactants. With respect to the markers, Applicants have amended the claims to recite a specific group of selection agents. As the Examiner noted, the specification exemplifies kanamycin and paromycin. However, Applicants' invention is not limited to only those embodiments. One of skill in the art is readily familiar with the common selection agents that can be substituted in place of kanamycin and paromycin. Such antibiotics are extensively studied. And no undue experimentation is required to employ them in the present invention. Similarly, concentrations of surfactant can be readily determined. The Application guides the skilled artisan to some preferred ranges. And using very routine experimentation, the skilled artisan can test these ranges and then extend the studies to other ranges as desired. Nothing undue is required.

Claims 11-15 and 28-32 were rejected as allegedly being indefinite because they recite a trademark. Applicants have cancelled those claims, or where appropriate, inserted the more generic "organosilicone" language.

Claims 3 and 20 were rejected under section 101 for double patenting. Applicants have cancelled those claims.

Finally, the Examiner rejected claims 1-2, 4-19, 21-33, and 38-39 under the doctrine of obviousness-type double patenting over claims 2-12 and 14-27 of US Patent No. 6600088. Applicants agree to provide a terminal disclaimer upon an indication of otherwise allowable subject matter by the Examiner.

Applicants believe the claims are in condition for allowance and respectfully request reconsideration by the Examiner. Should any further information be needed to allow the claims, the Examiner is invited to contact the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Todd Rands', is written over a horizontal line.

M. Todd Rands
Reg. No. 46,249
800 North Lindbergh Boulevard, Mail Zone E2NA
St. Louis, Missouri 63167
(314) 694-5802
(314) 694-5311 (facsimile)